IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

WEDNESDAY, THE 1ST NOVEMBER 2006 / 10TH KARTHIKA 1928

WP(C).No. 27972 of 2006(E)

PETITIONER:

CHALAKKAPARAMBIL RAMESH, S/O. VASU,
PACHATTIRI AMSOM, PARIYAPURAM DESOM,
POST PACHATTIRI, TIRUR TALUK.

BY ADV. SRI.K.P.MUJEEB

RESPONDENTS:

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1. TIRUR URBAN CO-OPERATIVE BANK LTD.,
TIRUR, MALAPPURAM DISTRICT, BY ITS SECRETARY.

2. ASSISTANT REGISTRAR OF CO-OPERATIVE
SOCIETIES, TIRUR.

3. GENERAL MANAGER,
TIRUR URBAN CO-OPERATIVE BANK LTD.,
TIRUR, MALAPPURAM DISTRICT.

4. THE SALE OFFICER,
TIRUR URBAN CO-OPERATIVE BANK LTD.,
TIRUR, MALAPPURAM DISTRICT.

5. STATE OF KERALA, REPRESENTED BY THE
SECRETARY, MINISTRY OF CO-OPERATION,
GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

BY G.P.SMT.A.G.ANEETHA FOR R2, R4 & R5

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. Thankappan, J.

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W.P.(C). No. 27972 of 2006

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Dated this the 1st day of November, 2006

JUDGMENT

Petitioner had availed of a loan from the respondent bank on condition that the amount shall be repaid by instalments. As the loan became due, steps, including filing of an arbitration case, have been taken against the petitioner to recover the amount. In execution of the award, Ext.P1 proceedings was issued and the the respondent bank purchased the property in public auction. The petitioner submits that he has already filed Ext.P2 petition before the Joint Registrar of Co-operative Societies (General), Malappuram, who is not a party in this proceeding, for setting aside the sale conducted by the 4th respondent. The writ petition is filed for a direction to the Joint Registrar to pass appropriate orders on Ext.P2 petition and till the disposal of Ext.P2 petition all further proceedings pursuant to Ext.P1 may be kept in abeyance.

2. Admittedly the petitioner had availed the loan from the respondent bank and since the loan became due, the respondent bank initiated steps to recover the amount including filing of an arbitration case. The respondent bank purchased the property in public auction, against which Ext.P2

petition was filed before the Joint Registrar for setting aside the sale of the property. The Joint Registrar is competent to set aside the sale order passed by the sale officer only on the ground of fraud or irregularity. Now the sale is on the basis of the award passed by the arbitrator. The petitioner has no case that the sale order is passed on the ground of any fraud or irregularity. Hence, this Court is of the view that the writ petition is devoid of any merit and it is liable to be dismissed. Accordingly, the writ petition is dismissed.

K.Thankappan,
Judge.

mn.

K. Thankappan,J.

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W.P.(C) No. /2006

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Judgment
20-9-2006